

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IN RE ORGANOGENESIS SECURITIES
LITIGATION

Civ. No. 04-10027-JLT

**DEFENDANTS' PARTIALLY ASSENTED-TO MOTION FOR LEAVE TO FILE
SURREPLY AND TO SET BRIEFING DEADLINE**

Pursuant to Local Rule 7.1(B)(3), Defendants respectfully request leave to file, by December 22, 2006, a surreply memorandum in opposition to Plaintiffs' Motion for Class Certification.

Plaintiffs assent to Defendants' request for leave to file a surreply, and Defendants have agreed to assent to Plaintiffs' request for leave to file a sur-surreply if Plaintiffs wish to file one after reviewing the Defendants' surreply. However, the parties are unable to agree on a deadline for the surreply. Plaintiffs are willing to agree to a filing deadline of December 8, 2006, while Defendants seek a deadline two weeks later, December 22, 2006.

As grounds for this Motion, Defendants state:

1. A short surreply will aid the Court in its determination of the issues presented by the Motion for Class Certification and is necessary to adequately address some of the issues raised in Plaintiffs' Reply in Support of Motion for Class Certification.
2. Both the proposed surreply and the additional two weeks sought by Defendants are warranted given that Plaintiffs' Reply Memorandum of Law and Appendix in Support of Motion for Class Certification (Dkt. Nos. 177 and 178) included five new affidavits, including an expert affidavit and a "Second Revised" PSLRA certification for Lead Plaintiff Madigan.

3. The seven defendants, who are represented by three separate counsel, have agreed to jointly brief their Opposition to Class Certification. Thus, allowing a surreply brief will still result in less briefing on the Motion for Class Certification than if each defendant had opted to file individual twenty-page memoranda in opposition, as is allowed by Local Rule 7.1(B)(4).
4. As fact discovery is not scheduled to close until April 25, 2007 and the parties continue to proceed with discovery simultaneously with the briefing on the Motion for Class Certification, affording Defendants until December 22, 2006 (rather than December 8, 2006) to file their surreply will have no impact on the case schedule.

WHEREFORE, the Defendants respectfully request leave to file a surreply memorandum in opposition to Plaintiffs' Motion for Class Certification by December 22, 2006.

Dated: December 6, 2006

By: /s/ Jonathan A. Shapiro

Jeffrey B. Rudman (BBO #433380)
Jonathan A. Shapiro (BBO #567838)
Peter J. Kolovos (BBO #632984)
Sherry Hartel Haus (BBO# 663777)
Kimberly I. Friday (BBO # 660544)
Wilmer Cutler Pickering Hale and Dorr LLP
60 State Street
Boston, MA 02109
(617) 526-6000

*Counsel for Albert Erani, Donna Abelli Lopolito,
Philip Laughlin, Michael Sabolinski, and Alan
Tuck*

By: /s/ Sara Jane Shanahan

By: /s/ Peter M. Saparoff

Sara Jane Shanahan (BBO #567837)
Griesinger, Tighe & Maffei, LLP
176 Federal Street
Boston, MA 02110
(617) 542-9900

Peter M. Saparoff (BBO #441740)
Breton T. Leone-Quick (BBO #655571)
Mintz, Levin, Cohn, Ferris, Glovsky & Popeo PC
One Financial Center
Boston, MA 02111
(617) 542-6000

Counsel for John Arcari

Counsel for Herbert Stein

LOCAL RULE 7.1(A)(2) CERTIFICATION

Counsel for Plaintiffs have been advised of this motion, and assent to the filing of a surreply but oppose Defendants' proposed December 22, 2006 deadline.

/s/ Jonathan A. Shapiro
Jonathan A. Shapiro

CERTIFICATE OF SERVICE

I, Kimberly I. Friday, hereby certify that a true copy of this document, filed through the ECF system, will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF).

/s/ Kimberly I. Friday